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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,445	05/09/2001	James Herbert Mason	F-6970	4273

7590

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Jordan & Hamburg  
122 East 42nd Street  
New York, NY 10168

EXAMINER

MILLER, CRAIG S

ART UNIT PAPER NUMBER

2857

DATE MAILED: 07/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/831,445

Applicant(s)

MASON

Examiner

Craig Steven Miller

Group Art Unit

2857

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on 19 June 2003

☒ This action is FINAL

- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-29 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some\* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other \_\_\_\_\_

Office Action Summary

1. Claims 1, 1/12, 1/13, 1/15, 1/16 and 27-29 are rejected under 35 U.S.C. § 103 as being unpatentable over Palombi (5,029,397).

Palombi discloses a vehicle alignment gauging system including dimension measuring and output means [200], reference data storage means and comparison means, error signal generating and displaying means [within 38 as described in col. 2 lines 47+ and col. 5 lines 43+]. Therefore, Palombi discloses the instant invention essentially as claimed with the exception that Palombi discloses calculating (through triangulation) linear distances rather than the claimed direct measurements. Palombi discloses the use of triangulated coordinate measurements with respect to reference plane [300]/[400] rather than direct relative measurements as claimed. Palombi discloses translating the triangulated measurements to such direct measurements. Because direct measurements in place of triangulated calculations are known in general, because Palombi does not preclude direct measurement, and because applicant does not claim any unexpected results or synergistic results from the use of direct measurements, it would be obvious to one of ordinary skill in the art at the time the invention was made to use direct measurement in place of the triangulated calculated measurements of Palombi, each performing similar functions in similar ways, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as reduced system complexity and cost.

More particularly with respect to claims 1/12, 1/13, 1/15 and 1/16, said claims are directed towards inherent computer components within the computer as disclosed in Palombi.

More particularly with respect to claim 27, Palombi discloses attachment mechanism [87] for at least one portion of the dimension measuring means.

2. Claims 2, 3, 3/12, 3/13, 3/15, 3/16, 4-8, 4-8/12, 4-8/13, 4-8/15, 4-8/16, 9-11, 14, and 17-26 are rejected under 35 U.S.C. 103 as being unpatentable over Palombi.

As to claims 2, 3, 3/12, 3/13, 3/15, 3/16, 9, 10, and 21-26, said claims are directed towards using tape measures, particularly in an orthogonal relationship, to determine data point relative coordinates. Palombi discloses the use of triangulated coordinate measurements with respect to reference plane [300]/[400] rather than direct relative measurements as claimed. Palombi discloses

translating the triangulated measurements to such direct measurements. Because direct measurements in place of triangulated calculations are known in general, because Palombi does not preclude direct measurement, and because applicant does not claim any unexpected results or synergistic results from the use of direct measurements, it would be obvious to one of ordinary skill in the art at the time the invention was made to use direct measurement in place of the triangulated calculated measurements of Palombi, each performing similar functions in similar ways, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as reduced system complexity and cost.

As to claims 4-8, 4-8/12, 4-8/13, 4-8/15 and 4-8/16, said claims are directed towards known tape measure devices for use as a measuring device. Because such measuring devices are so well known, because Palombi as modified above uses known tape measures for measuring distances, and because Palombi does not preclude the use of these known measuring devices, it would be obvious to one of ordinary skill in the art at the time the invention was made to use such known measuring devices within the device of Palombi, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as increased system accuracy and automation.

As to claims 11, 17 and 20, said claims are directed towards data display and user input within the tape housing. Palombi discloses user display and input at a computer [38]. It is known in general to shift the location of a component, In re Japikse, 86 USPQ 70 (CCPA 1950) and to make integral that which was separate, In re Larsen, 144 USPQ 347 (CCPA 1965), In re Fridolph, 50 CCPA 745, 89 F.2d 509, 135 USPQ 319, In re Lockhart, 90 USPQ 214 (CCPA 1951). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to integrate the separate display and user input into the tape housing of Palombi as modified above, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as ease of use and user convenience.

As to claim 14, said claim is directed toward the vehicle data being loaded from a CD ROM disk. It is well known within the art of automobile engineering and servicing to deliver selected vehicle service data via CD ROM disks as commonly done by ALLDATA®. Therefore because Palombi discloses loading vehicle data and because such data is commonly loaded from CD ROM disks for the

selected vehicle, it would be obvious to one of ordinary skill in the art at the time the invention was made to load the selected vehicle service data via CD ROM disks within the device of Palombi, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as increased system flexibility.

As to claim 18, said claim is directed towards recording the measured coordinate upon user input. It is well known within the computer arts to perform storage operations upon user input. Therefore because Palombi inherently discloses saving data, it would be obvious to one of ordinary skill in the art at the time the invention was made to initiate the inherent saving step of Palombi upon user command, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as increased system accuracy.

As to claim 19, said claim is directed towards outputting data via a printer. Because Palombi discloses outputting the calculated data to the user, because printouts are a known means for outputting data, it would be obvious to one of ordinary skill in the art at the time the invention was made to output the data of Palombi via a known printer output device, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as increased system flexibility and permanent retention of measured data.

3. Applicant's arguments filed 26 June 2003 have been fully considered but they are not persuasive.

As to Applicant's arguments of page 11, said arguments are moot in view of the new grounds of rejection directed to Applicant's amendment.

As to Applicant's arguments starting in the middle of page 11, Applicant asserts that, "...while the Examiner states that tape measures are notoriously well known measurement devices, no prior art documents in support of this position are cited..." The Examiner shall interpret this statement as a challenge to Examiners Official Notice on this point. The Examiner would remind Applicant that citations of such well known *facts* need not be made unless such Official Notice is challenged as in the instant case. In response to said challenge, Examiner notes Hoenig, Sr. item [52] as illustrated in figure 5 and Komura *et al.* (see figures 1 and 2) as previously cited

by the Examiner and also Strege *et al.* item [12] as illustrated in figures 3 and 4. The Examiner notes that Strege *et al.* was submitted by Applicant as indicated in the PTO-1449 found in paper 6. As to whether one of ordinary skill in the art would need additional guidance to make the necessary modifications. It is clearly the Examiner's belief that such is the case, that because all of the measuring devices within the art of interest merely determine location coordinates for the automobile parts of interest, and because the art of determining location coordinate either by direct measurement, triangulation or a combination of both means dates back to the year 1630, (René Descartes (1596 - 1650)), and is so incredibly mature, it is deemed well within the skill of said one of ordinary skill in the art at the time the invention was made to perform just those types of common measurement calculations and direct observations used therein.

4. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Craig Steven Miller whose telephone number is (703) 305-9730. Art Unit facsimile services are now available at (703) 308-7722.

The Examiner can normally be reached on Mondays and Thursdays from 7:30am-6:00pm EDT. Should repeated attempts to reach the Examiner be unsuccessful, the Examiner's Supervisor, Marc Hoff may be reached at (703) 308-1677.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Craig Steven Miller (ss)  
22 July 2003

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800